

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION**

CRIMINAL NO. 1:09CR57

UNITED STATES OF AMERICA

VS.

BRYAN KEITH NOEL

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ORDER

THIS MATTER is before the Court on Government's motion to set a trial date of February 2010, necessitating a continuance from the August 31, 2009, term in the Asheville Division.

The Government sets forth the extensive discovery involved in this case as well as the probability that a superseding indictment will be presented to the grand jury during its August 4 session. The Government states that these matters have been discussed with defense counsel and the parties are in agreement that a peremptory setting of the trial date is necessary. **See Government's Motion, at 2.**

The Court finds that the Government has made a showing that this case is so complex due to the nature of the prosecution and the amount of

discovery to be reviewed and organized, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by the Speedy Trial Act. **18 U.S.C. §**

3161(h)(8)(B)(ii). The Court further finds that the ends of justice served by taking such action outweigh the best interest of the public and the Defendant to a speedy trial, and Defendant does not oppose the relief sought.

With regard to the request for a peremptory setting, the parties are aware of this Court's imminent retirement on August 31, 2009, and that this matter will be reassigned. Therefore, the motion to set trial date will be denied without prejudice to renewal thereafter.

IT IS, THEREFORE, ORDERED that the joint request for continuance is **ALLOWED**, and this case is hereby continued from the August 31, 2009, term in the Asheville Division.

IT IS FURTHER ORDERED that the Government's motion to set trial date is hereby **DENIED** without prejudice.

Signed: July 17, 2009

A handwritten signature in dark ink, appearing to read "L. H. Thornburg", is written over a horizontal line.

Lacy H. Thornburg
United States District Judge

